

LRWIN

**GAO**

United States General Accounting Office  
Washington, DC 20548

17812  
Conrad  
Office of  
General Counsel  
In Reply  
Refer to: B-202381

April 17, 1981

Dan M. Burt, President  
Capital Legal Foundation  
1101 17th Street, N.W.  
Suite 1008  
Washington, D.C. 20036

DIG-06556

Dear Mr. Burt:

(Actions taken by DOE)

In your recent letter to us, you expressed concern with various actions taken by the Department of Energy, and by its former Special Counsel for Compliance, with regard to the distribution of overcharge refunds obtained as a result of consent orders between Energy and certain producers of petroleum products. You requested that the General Accounting Office institute a collection action against the former Special Counsel, to recover from him \$4 million in settlement funds that were disbursed on his orders to four charitable organizations.

On April 1, 1981, we provided the Chairman of the House Committee on Energy and Commerce with an opinion that deals with the issues you raised, among others. In view of your interest in this matter, we are enclosing a copy of the opinion, B-200170.

In this opinion, we have determined that the former Special Counsel was acting as an accountable officer with regard to the overcharge funds, and exceeded his authority in ordering their disbursement to the charities. We also held that Energy lacked the authority to effect a compromise of the charities' liability for refund of the funds that they erroneously received. For these reasons, in our view Energy should attempt to collect from the former Special Counsel and the four charities the funds that were improperly ordered to be disbursed (less the \$1 million refund negotiated by Energy). In light of the novel issues raised with regard to liability, we shall refer this matter to the Department of Justice for its consideration in connection with any further action required.

Sincerely yours,

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel

Enclosure



DIG-549